



27 MAR 2008

HEDMAN & COSTIGAN P.C.  
1185 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

In re Application of	:	
FERRANDIS, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/522,457	:	
PCT No.: PCT/FR03/02570	:	UNDER 37 CFR 1.78(a)(3)
Int. Filing Date: 25 August 2003	:	
Priority Date: 26 August 2002	:	AND 37 CFR 1.55(c)
Atty Docket No.: 427.094	:	
For: HETEROCARPINE, A PROTEIN OF	:	
VEGETABLE ORIGIN WITH ANTI-CANCER	:	
PROPERTIES	:	

This is a decision on the renewed petition filed 07 March 2008 in the United States Patent and Trademark Office (USPTO). The renewed petition is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment and under 37 CFR 1.55(c) for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign application number 01/02631, filed 27 February 2001.

#### **I. Renewed Petition Under 37 CFR 1.78(a)(3)**

On 29 February 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.78(a)(3) as there was a typographical error in the filing date of the nonprovisional application as provided in the filed amendment.

Applicant has presently filed an amendment correcting the error and has thus satisfied the last remaining item and the renewed petition is **GRANTED**.

Accordingly, having found that the instant renewed petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the renewed petition is granted.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this**

**benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.**

## **II. Petition Under 37 CFR 1.55(c)**

Applicant is advised that the petition procedure under 37 CFR 1.55(c) to add a delayed foreign priority claim does not apply to U.S. National Phase applications filed under 35 U.S.C. 371. Foreign priority in a U.S. National Phase application is governed by 35 U.S.C. 365(b). As such, the petition to accept the late claim of priority of French Patent application serial number 01/02631 filed February 27, 2001 is **DISMISSED**.

A Corrected Filing Receipt which includes the priority claim to the prior-filed nonprovisional application accompanies this decision.

Any inquiries concerning this decision may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.



Boris Milef  
Senior Legal Examiner  
Office of PCT Legal Administration

**ATTACHMENT:** Corrected Filing Receipt



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/522,457	01/21/2005	1643	2270	427.094	5	1

**CONFIRMATION NO. 5578**

## CORRECTED FILING RECEIPT



\*OC00000029126081\*

47888  
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NEW YORK, NY 10036

Date Mailed: 03/27/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

### Applicant(s)

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Christine Sohier, Saint Roch, FRANCE;  
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**Power of Attorney:** The patent practitioners associated with Customer Number 20311

### Domestic Priority data as claimed by applicant

This application is a 371 of PCT/FR03/02570 08/25/2003  
which is a CIP of 10/470,112 07/24/2003  
which is a 371 of PCT/FR02/00691 02/26/2002

### Foreign Applications

FRANCE 02/10560 08/26/2002

**If Required, Foreign Filing License Granted: 03/27/2008**

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/522,457**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Heterocarpine, a plant-derived protein with anti-cancer properties

**Preliminary Class**

514

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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